

agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary and Small Business of the Senate and House of Representatives.

(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as *amicus curiae* in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the effect of the rule on small entities.

(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

(Added Pub. L. 96-354, §3(a), Sept. 19, 1980, 94 Stat. 1170; amended Pub. L. 104-121, title II, §243(b), Mar. 29, 1996, 110 Stat. 866.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-121, §243(b)(1), which directed substitution of “the Committees on the Judiciary and Small Business of the Senate and House of Representatives” for “the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives”, was executed by making the substitution for “the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives” to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 104-121, §243(b)(2), substituted “his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the” for “his views with respect to the”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-121 effective on expiration of 90 days after Mar. 29, 1996, but inapplicable to interpretative rules for which a notice of proposed rulemaking was published prior to Mar. 29, 1996, see section 245 of Pub. L. 104-121, set out as a note under section 601 of this title.

CHAPTER 7—JUDICIAL REVIEW

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| Sec. | |
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SHORT TITLE

The provisions of sections 551 to 559 of this title and this chapter were originally enacted by act June 11, 1946, ch. 423, 60 Stat. 237, popularly known as the “Administrative Procedure Act”. That Act was repealed as part of the general revision of this title by Pub. L. 89-554 and its provisions incorporated into sections 551 to 559 of this title and this chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 559, 611, 8902 of this title; title 2 sections 501, 502; title 7 sections 136a, 1642, 6999; title 8 section 1421; title 10 section 2409; title 12 sections 1441a, 1467a, 1749bbb-17, 1786, 1787, 1815, 1818,

1821, 1959, 2266, 2268, 4583, 4634; title 15 sections 57a, 78dd-1, 78dd-2, 266, 687e, 1193, 1715, 2060, 2603, 2618, 2622, 3416, 5623, 6208; title 16 sections 460aa-3, 470q, 823b, 1374, 1536, 1855, 2404, 3636; title 17 sections 701, 908; title 18 sections 843, 3625; title 19 section 1337; title 20 sections 107d-2, 1683; title 21 sections 350b, 360e, 360g, 360kk; title 22 sections 277d-24, 1623, 1645n, 3794, 4140; title 25 sections 954, 1776b, 2713, 2714; title 26 section 9041; title 29 sections 214, 727, 792, 1137; title 30 sections 956, 1411, 1415, 1416; title 33 sections 524, 597; title 35 section 135; title 38 section 502; title 39 sections 404, 410, 3001, 3008, 3012, 3603; title 41 sections 43a, 265; title 42 sections 300j-6, 300j-9, 1395h, 1395oo, 1436c, 2000d-2, 2022, 2231, 2236, 2239, 2282a, 2286f, 4104, 5405, 5851, 6105, 6303, 6306, 6973, 6976, 7276, 7525, 7607, 7622, 7920, 8412, 8433, 8441, 10132, 10155, 10244; title 44 section 2203; title 45 sections 1116, 1212; title 47 sections 303, 305, 310, 409; title 49 sections 31102, 31141, 70110; title 50 sections 835, 2011; title 50 App. sections 463, 2159, 2412.

§ 701. Application; definitions

(a) This chapter applies, according to the provisions thereof, except to the extent that—

(1) statutes preclude judicial review; or

(2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; subchapter II of chapter 471 of title 49; or sections 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix; and

(2) “person”, “rule”, “order”, “license”, “sanction”, “relief”, and “agency action” have the meanings given them by section 551 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 103-272, §5(a), July 5, 1994, 108 Stat. 1373.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|--------------------------------------|--|
| (a) | 5 U.S.C. 1009 (introductory clause). | June 11, 1946, ch. 324, §10 (introductory clause), 60 Stat. 243. |

In subsection (a), the words “This chapter applies, according to the provisions thereof,” are added to avoid the necessity of repeating the introductory clause of former section 1009 in sections 702-706.

Subsection (b) is added on authority of section 2 of the Act of June 11, 1946, ch. 324, 60 Stat. 237, as amended, which is carried into section 551 of this title.